

HOUSE BILL No. 1572

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-9-25-11; IC 36-9-25-11.6.

Synopsis: Sewer rates for multipurpose buildings. For purposes of the statute governing sanitation districts in certain municipalities, provides that in establishing sewer fees, a district must provide for: (1) the apportionment or proration of fees assessed with respect to a multipurpose building in a manner that recognizes the different purposes to which the multipurpose building is put; or (2) the application of different fee schedules or classifications of fees to the individual units or parts of a multipurpose building in a manner that recognizes the primary purpose of the individual units or parts. Provides that any schedule of fees that: (1) is adopted by a district before May 13, 2015; and (2) does not comply with the requirements with respect to multipurpose buildings; must, not later than September 30, 2015, be changed or amended to comply with the requirements.

Effective: Upon passage.

Smith V, Burton

January 20, 2015, read first time and referred to Committee on Local Government.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1572

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-9-25-11, AS AMENDED BY P.L.196-2014,
2 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 11. (a) In connection with its duties, the board
4 may fix fees for the treatment and disposal of sewage and other waste
5 discharged into the sewerage system, collect the fees, and establish and
6 enforce rules governing the furnishing of and payment for sewage
7 treatment and disposal service. The fees must be just and equitable and
8 shall be paid by any user of the sewage works and, except as otherwise
9 provided in an ordinance provision described in subsection (l), the
10 owner of every lot, parcel of real property, or building that is connected
11 with and uses the sewage works of the district by or through any part
12 of the sewerage system. This section applies to owners of property that
13 is partially or wholly exempt from taxation, as well as owners of
14 property subject to full taxation.
15 (b) The board may change fees from time to time. The fees, together



1 with the taxes levied under this chapter, must at all times be sufficient
 2 to produce revenues sufficient to pay operation, maintenance, and
 3 administrative expenses, to pay the principal and interest on bonds as
 4 they become due and payable, and to provide money for the revolving
 5 fund authorized by this chapter.

6 (c) Fees may not be established until a public hearing has been held
 7 at which all the users of the sewage works and owners of property
 8 served or to be served by the works, including interested parties, have
 9 had an opportunity to be heard concerning the proposed fees. After
 10 introduction of the resolution fixing fees, and before they are finally
 11 adopted, notice of the hearing setting forth the proposed schedule of
 12 fees shall be given by publication in accordance with IC 5-3-1. After
 13 the hearing the resolution establishing fees, either as originally
 14 introduced or as amended, shall be passed and put into effect.
 15 However, fees related to property that is subject to full taxation do not
 16 take effect until they have been approved by ordinance of the municipal
 17 legislative body or, in the case of a district described in section 3(b)(2)
 18 of this chapter, under section 11.3 of this chapter.

19 (d) A copy of the schedule of the fees shall be kept on file in the
 20 office of the board and must be open to inspection by all interested
 21 parties. **Subject to section 11.6 of this chapter**, the fees established
 22 for any class of users or property served shall be extended to cover any
 23 additional premises thereafter served that fall within the same class,
 24 without the necessity of hearing or notice.

25 (e) A change of fees may be made in the same manner as fees were
 26 originally established. However, **subject to section 11.6 of this**
 27 **chapter**, if a change is made substantially pro rata for all classes of
 28 service, hearing or notice is not required, but approval of the change by
 29 ordinance of the municipal legislative body is required, and, in the case
 30 of a district described in section 3(b)(2) of this chapter, approval under
 31 section 11.3 of this chapter is required.

32 (f) If a fee established is not paid within thirty (30) days after it is
 33 due, the board may recover, in a civil action in the name of the
 34 municipality, the amount, together with a penalty of ten percent (10%)
 35 and a reasonable attorney's fee from:

- 36 (1) the delinquent user; or
- 37 (2) the owner of the property;

38 subject to any ordinance described in subsection (l).

39 (g) Except as otherwise provided in subsection (h) or in an
 40 ordinance provision described in subsection (l), fees assessed against
 41 real property under this section also constitute a lien against the
 42 property assessed. The lien attaches at the time of the filing of the



notice of lien in the county recorder's office. The lien is superior to all other liens except tax liens, and shall be enforced and foreclosed in the same manner as is provided for liens under IC 36-9-23-33 and IC 36-9-23-34.

(h) A fee assessed against real property under this section constitutes a lien against the property assessed only when the fee is delinquent for no more than three (3) years from the day after the fee is due.

(i) In addition to the:

(1) penalties under subsections (f) and (g); or

(2) alternative penalty available under section 11.5 of this chapter;

a delinquent user may not discharge water into the public sewers and may have the property disconnected from the public sewers.

(j) The authority to establish a user fee under this section includes fees to recover the cost of construction of sewage works from industrial users as defined and required under federal statute or rule. Any industrial users' cost recovery fees may become a lien upon the real property and shall be collected in the manner provided by law. In addition, the imposition of the fees, the use of the amounts collected, and the criteria for the fees must be consistent with the regulations of the federal Environmental Protection Agency.

(k) The authority to establish a user fee under this section includes fees to recover the costs associated with providing financial assistance under section 42 of this chapter. A fee that is:

(1) established under this subsection or any other law; and

(2) used to provide financial assistance under section 42 of this chapter;

is considered just and equitable if the project for which the financial assistance is provided otherwise complies with the requirements of this chapter.

(l) For purposes of this subsection, "municipal legislative body" refers to the legislative body of each municipality in the district, in the case of a district described in section 3(b)(2) of this chapter. This subsection does not apply to a conservancy district established under IC 14-33 for the collection, treatment, and disposal of sewage and other liquid wastes. In an ordinance adopted under this chapter, the municipal legislative body may include one (1) or more of the following provisions with respect to property occupied by someone other than the owner of the property:

(1) That fees for the services rendered by the sewerage system to the property are payable by the person occupying the property. At



the option of the municipal legislative body, the ordinance may include any:

(A) requirement for a deposit to ensure payment of the fees by the person occupying the property; or

(B) other requirement to ensure the creditworthiness of the person occupying the property as the account holder or customer with respect to the property;

that the municipal legislative body may lawfully impose.

(2) That the fees for the services rendered by the sewerage system to the property are payable by the person occupying the property if one (1) of the following conditions is satisfied:

(A) Either the property owner or the person occupying the property gives to the board written notice that indicates that the person occupying the property is responsible for paying the fees with respect to the property and requests that the account or other customer or billing records maintained for the property be in the name of the person occupying the property.

At the option of the municipal legislative body, the ordinance may provide that a document that:

(i) is executed by the property owner and the person occupying the property;

(ii) identifies the person occupying the property by name; and

(iii) indicates that the person occupying the property is responsible for paying the fees assessed by the board with respect to the property;

serves as written notice for purposes of this clause.

(B) The account or other customer or billing records maintained by the board for the property otherwise indicate that:

(i) the property is occupied by someone other than the owner; and

(ii) the person occupying the property is responsible for paying the fees.

(C) The property owner or the person occupying the property satisfies any other requirements or conditions that the municipal legislative body includes in the ordinance.

(3) That fees assessed against the property for the services rendered by the sewerage system to the property do not constitute a lien against the property, notwithstanding subsection (g), and subject to any requirements or conditions set forth in the ordinance.



1 This subsection may not be construed to prohibit a municipal
 2 legislative body from including in an ordinance adopted under this
 3 chapter any other provision that the municipal legislative body
 4 considers appropriate.

5 SECTION 2. IC 36-9-25-11.6 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE UPON PASSAGE]: **Sec. 11.6. (a) As used in this**
 8 **section, "multipurpose building" means a building that:**

9 (1) is connected with and uses the sewage works of a district;
 10 and

11 (2) is used for more than one (1) purpose or has individual
 12 units or parts that are used for different purposes.

13 (b) As used in this section, "purpose" means the primary use to
 14 which a lot, parcel of real property, or building is put and that is
 15 the basis for a particular schedule or class of fees established by a
 16 district under section 11 of this chapter. The term includes any of
 17 the following purposes to which a lot, parcel of real property, or
 18 building is put:

19 (1) Residential purposes.

20 (2) Industrial purposes.

21 (3) Commercial purposes.

22 (4) Agricultural purposes.

23 (c) In establishing fees under section 11 of this chapter for the
 24 treatment and disposal of sewage and other waste discharged into
 25 the district's sewer system, a district must provide for:

26 (1) the apportionment or proration of fees assessed with
 27 respect to a multipurpose building in a manner that
 28 recognizes the different purposes to which the multipurpose
 29 building is put; or

30 (2) the application of different fee schedules or classifications
 31 of fees to the individual units or parts of a multipurpose
 32 building in a manner that recognizes the primary purpose of
 33 the individual units or parts.

34 (d) Any schedule of fees that:

35 (1) is adopted under this chapter before May 13, 2015; and

36 (2) does not comply with the requirements of this section with
 37 respect to multipurpose buildings;

38 must, not later than September 30, 2015, be changed or amended
 39 in the manner specified in section 11(e) of this chapter to comply
 40 with this section.

41 SECTION 3. An emergency is declared for this act.

